

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION**

**SANQARELL ANTONIO JERNINGAHAN, #R5937**

**PETITIONER**

**VERSUS**

**CIVIL ACTION NO. 4:08-cv-11-DPJ-JCS**

**JACQUELYN BANKS**

**RESPONDENT**

**ORDER OF TRANSFER PURSUANT TO 28 U.S.C. § 1681**

This matter comes before this Court, *sua sponte*, for consideration of the transfer of this cause. The Petitioner, an inmate currently incarcerated in the Wilkinson County Correctional Facility, Woodville, Mississippi, filed this request for habeas corpus relief pursuant to 28 U.S.C. § 2254. Petitioner states that on November 13, 2003, he was convicted of sale of cocaine in the Circuit Court of Neshoba County, Mississippi and sentenced to twenty years in the custody of the Mississippi Department of Corrections.

The Petitioner has previously filed for habeas relief in this Court challenging the same conviction, in civil action number 4:06-cv-94-TSL-LRA. On January 25, 2007, this Court entered a final judgment which dismissed the action, with prejudice. The United States Court of Appeals for the Fifth Circuit denied petitioner's request for a certificate of appealability on February 7, 2007, appeal number 07-60069.

A Petitioner who is filing a second or successive motion for habeas relief must first apply to the appropriate court of appeals for an order authorizing the district court to consider the successive motion. 28 U.S.C. § 2244(b)(3)(A). The Petitioner has failed to submit any documentation demonstrating that he has obtained the required authorization from the United States Court of Appeals for the Fifth Circuit. Therefore, this Court has determined that in the

interest of justice, this cause should be transferred to the United States Court of Appeals for the Fifth Circuit for a determination whether this successive or second petition should be allowed. *See In Re Epps*, 127 F.3d 364 (5th Cir. 1997). Accordingly,

**IT IS HEREBY, ORDERED AND ADJUDGED** that pursuant to 28 U.S.C. § 1631, this petition for habeas corpus relief is transferred to the United States Court of Appeals for the Fifth Circuit.

**IT IS FURTHER ORDERED AND ADJUDGED** that the Clerk of this Court is directed to close this case pending the decision of the United States Court of Appeals for the Fifth Circuit.

**SO ORDERED AND ADJUDGED** this the 17<sup>th</sup> day of March, 2008.

*s/ Daniel P. Jordan III*  
UNITED STATES DISTRICT JUDGE